

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

|                            |   |                                |
|----------------------------|---|--------------------------------|
| UNITED STATES OF AMERICA   | § |                                |
|                            | § |                                |
| VS.                        | § | CASE NO. 2:12-CR-10(1) JRG-RSP |
|                            | § |                                |
| APOLINAR CARBAJAL ABELARDO | § |                                |

**FINDINGS OF FACT AND RECOMMENDATION ON GUILTY PLEA**  
**BEFORE THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636(b), this matter has been referred by the District Court for administration of a plea of guilty under Rule 11 of the Federal Rules of Criminal Procedure.

On February 28, 2013, this cause came before the undersigned United States Magistrate Judge for a plea of guilty to the superseding indictment charging the defendant in Count 1 with a violation of 21 U.S.C. § 846, Conspiracy to Possess with Intent to Distribute and Distribution of Methamphetamine and Cocaine of More than 50 grams. After conducting said proceeding in the form and manner prescribed by FED. R. CRIM. P. 11, the undersigned finds that:

- a. the defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea in this cause by a United States Magistrate Judge, subject to a final acceptance and imposition of sentence by the District Judge;
- b. the defendant and the government have entered into a plea agreement which has been filed and disclosed in open court pursuant to FED. R. CRIM. P. 11(c)(2);
- c. the defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges , the maximum penalties, and the consequences of the plea, and that the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense; and
- d. the defendant understands each of the constitutional and statutory rights

enumerated in Rule 11(b) and wishes to waive these rights, including the right to a trial by jury.

IT IS THEREFORE RECOMMENDED that the District Court accept the Plea Agreement and the Guilty Plea of the defendant and that APOLINAR CARBAJAL ABELARDO should be finally adjudged guilty of that offense.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this Report within 14 days after being served with a copy shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. FED. R. CIV. P. 72(b)(2); *see Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

**SIGNED this 28th day of February, 2013.**

  
ROY S. PAYNE  
UNITED STATES MAGISTRATE JUDGE